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14 ALLIANCE and PETALUMA RIVER COUNCIL

15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 CALIFORNIA SPORTFISHING  
18 PROTECTION ALLIANCE, a non-profit  
19 corporation, and PETALUMA RIVER  
20 COUNCIL, an unincorporated association,

21 Plaintiffs,

22 vs.

23 M&M SERVICES, INC., a corporation, and  
24 SHILOH ROAD LLC, a limited liability  
25 company,

26 Defendants.

Case No. C11-02949 TEH

NOTICE OF SETTLEMENT; STIPULATION  
AND [~~PROPOSED~~] ORDER STAYING  
PROCEEDINGS AND VACATING EXISTING  
DEADLINES

Honorable Judge Thelton E. Henderson

Further Case Management Conference:  
July 16, 2012  
Time: 1:30 p.m.  
Courtroom: 12

27 **PLEASE TAKE NOTICE** that the parties have reached a settlement resolving all claims in  
28 this action. The settlement is contingent upon the expiration of the federal agencies' 45-day review  
period required by the Federal Water Pollution Control Act, 33 U.S.C. § 1365(c)(2).<sup>1</sup>

**PLEASE TAKE FURTHER NOTICE** that, in accordance with federal law, no judgment

<sup>1</sup> Title 33 of the United States Code, Section 1365(c)(2) provides that "[n]o consent judgment shall be entered in an action in which the United States is not a party prior to 45-days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator."

1 disposing of this action may be entered prior to 45 days following the receipt of the proposed  
 2 settlement agreement by the United States Department of Justice and the national and Region IX  
 3 offices of the United States Environmental Protection Agency. *See* 40 C.F.R. § 135.5 (requiring the  
 4 parties to provide notice to the court of the 45-day agency review period under 33 U.S.C. § 1365(c)).  
 5 Such notice was mailed to the agencies on July 6, 2012. The regulatory agencies' review period will  
 6 end by approximately August 29, 2012 (allowing forty-five days for agency review and  
 7 approximately nine days for mailing time). If any of the reviewing agencies object to the proposed  
 8 Settlement Agreement, the parties would require additional time to meet and confer and attempt to  
 9 resolve the agencies' concerns. At the end of the 45-day review period, the parties will file either a  
 10 Stipulation for Approval of Settlement Agreement and Dismissal of Plaintiff's Claims or a notice  
 11 that the agencies objected to the proposed Settlement Agreement.

12 In light of the settlement agreement entered into by the parties and the need to await the  
 13 conclusion of the agencies' 45-day review period, Plaintiffs California Sportfishing Protection  
 14 Alliance and Petaluma River Council (collectively "CSPA") and Defendants M&M Services, Inc.  
 15 ("M&M") and Shiloh Road, LLC, through their respective counsel, stipulate and agree as follows:

16 **WHEREAS**, on June 15, 2011, CSPA filed its complaint in this action;

17 **WHEREAS**, on December 6, 2011, CSPA filed an amended complaint naming Shiloh Road  
 18 LLC as a defendant;

19 **WHEREAS**, the parties have been diligently engaged in settlement discussions;

20 **WHEREAS**, Plaintiffs and Defendant M&M successfully completed and executed a  
 21 Settlement Agreement on July 6, 2012.

22 **WHEREAS**, the Settlement Agreement also would resolve the claims alleged against Shiloh  
 23 Road, LLC;

24 **WHEREAS**, on July 6, 2012, the parties submitted the Settlement Agreement via certified  
 25 mail, return receipt requested, to the U.S. EPA and the U.S. Department of Justice and must now  
 26 await the completion of the 45-day review period set forth at 40 C.F.R. § 135.5 and 33 U.S.C. §  
 27 1365(c)(2);  
 28

**WHEREAS**, in the interests of efficiency and judicial economy, the parties wish to preserve costs incurred in this matter pending the agencies review of the executed settlement agreement;

**WHEREAS**, in light of the parties' entering into the settlement agreement and the need to allow the federal agencies 45 days to review the Settlement Agreement, the parties further request that the Court immediately stay all proceedings in this action until August 29, 2012, by which date the parties expect to have filed a conditioned stipulation for dismissal of Plaintiff's claims with the Court.

**THEREFORE, IT IS HEREBY STIPULATED** by and between CSPA, Petaluma River Council, M&M and Shiloh Road LLC, through their respective counsel of record, that the Court stay all proceedings in this action until August 29, 2012, and, with the exception of this Stipulation, vacate all deadlines and dates currently scheduled by the Court.

July 6, 2012

Respectfully submitted,

/s/ Michael R. Lozeau

Michael R. Lozeau

Attorney for Plaintiffs CALIFORNIA

SPORTFISHING PROTECTION ALLIANCE and

PETALUMA RIVER COUNCIL

/s/ Hans W. Herb

(as authorized on 7/6/12)

Attorney for Defendant M&M SERVICES, INC.

/s/ Robert C. Goodman

(as authorized on 7/6/12)

Attorney for Defendant SHILOH ROAD, LLC

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 07/09/2012

